IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

SAMPLE FARMS, LLC, et al.,)
Plaintiffs,)
v.) Case No. CIV-15-231-D
CONOCOPHILLIPS COMPANY,)
Defendant.)

ORDER

Upon examination of the Notice of Removal, the Court finds insufficient factual allegations to show the existence of subject matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332(a), as asserted by Defendant. The Notice of Removal states there is complete diversity of citizenship because Defendant is a citizen of Delaware and Texas pursuant to 28 U.S.C. § 1332(c)(1), and "[b]ased on the allegations in Plaintiffs' Petition, Plaintiffs are residents and citizens of the State of Oklahoma. Exhibit 1 at ¶ 1." *See* Notice of Removal [Doc. No. 1], ¶ 20. However, the Petition does not identify the members of Sample Farms, LLC, and it states only that "Plaintiffs are residence [sic] of Texas County, Oklahoma." *See* Petition [Doc. No. 1-1], ¶ 1. This allegation does not establish Plaintiffs' citizenship; merely alleging a place of residence is not sufficient. *See Whitelock v*.

¹ The Court has "an independent obligation to determine whether subject-matter jurisdiction exists" and may raise the issue *sua sponte* at any time. *Image Software, Inc. v. Reynolds & Reynolds Co.*, 459 F.3d 1044, 1048 (10th Cir. 2006).

Leatherman, 460 F.2d 507, 514-15 (10th Cir. 1972); see also Penteco Corp. Ltd. P'ship-1985A v. Union Gas Sys., Inc., 929 F.2d 1519, 1521 (10th Cir. 1991).²

IT IS THEREFORE ORDERED that Defendant shall file an amended notice of removal that states a sufficient factual basis for diversity jurisdiction within 14 days from the date of this Order.³

IT IS SO ORDERED this 11th day of March, 2015.

TIMOTHY D. DEGIUSTI UNITED STATES DISTRICT JUDGE

Every federal appellate court to consider the question has concluded that a limited liability company should be treated like a limited partnership or other unincorporated association under *Carden v. Arkoma Assocs.*, 494 U.S. 185, 195-96 (1990). *See Conagra Foods, Inc. v. Americold Logistics, LLC*, 776 F.3d 1175, 1176 n.2 (10th Cir. 2015); *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010) ("every federal court of appeals to address the question has concluded that a limited liability company, as an unincorporated business entity, should be treated as a partnership for purposes of establishing citizenship"); *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008) ("All federal appellate courts that have addressed the issue have reached the same conclusion: . . . the citizenship of a LLC is determined by the citizenship of all of its members.").

³ Defendant need not re-file the exhibits attached to the Notice of Removal but may incorporate them by reference pursuant to Fed. R. Civ. P. 10(c).